

To: [Ex. 6 - Personal Privacy]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Wed 1/18/2017 5:02:29 AM
Subject: Re: Your anticipated appointment to the United States Environmental Protection Agency

Hi Don,

No need to apologize - we are all working a lot of hours right now and sometimes it takes longer to respond than we had hoped. I'd like to say that it will slow down once everyone is on board, but I imagine we will all be quite busy for a while.

Karen did reach out to Justina and me earlier today, so we are all set. We are planning for you and Charles to come in at 9:00 and have your initial ethics counseling first thing. Most folks have been taking 45-60 minutes, so I have sent a note to Karen to see if you could do the fingerprints and badging step after you meet with Shannon and Myron if necessary. If we need to fit the initial counseling and fingerprints/badging into one hour, though, we will do it.

When you arrive tomorrow you can give the guards my name and number (564-5551 is my desk and [Ex. 6 - Personal Privacy] is my mobile) and I will come down and get you. I will introduce myself as I escort you up to Justina's office, and then she will be the one to walk you through the federal ethics program.

I look forward to meeting you tomorrow. If you need directions to our building, please just let me know.

Kevin.

Kevin S. Minoli
Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: [202-564-8064](tel:202-564-8064)

On Jan 17, 2017, at 11:27 PM, [Ex. 6 - Personal Privacy] wrote:

Kevin, I apologize for the delay but the T team has really had us buried!
I have arranged to meet Karen at 9am tomorrow for badging and fingerprinting. and we have a meeting at 10 with Shannon and Myron Ebel.
Can we do our meeting with you and Justina in 1/2 hour or so? If we can, then we can meet right after fingerprinting. Would you mind touching base with Karen to see if that can work. I will be there at 9 and stay as long as I need to,
Thank you so much for your patience and your help.
Don
Senator Don Benton

SWHA-EPA

Hi Don- I wanted to follow up to see if you had been able to reschedule your meeting with Karen and, therefore, would like to meet with us this afternoon? Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8064

From: Minoli, Kevin

Sent: Sunday, January 15, 2017 12:44 AM

To: Don Benton { **Ex. 6 - Personal Privacy** }

Subject: Re: Your anticipated appointment to the United States
Environmental Protection Agency

Don- Thank you for responding so quickly.

If you are able to arrange to meet Karen at 4:00, then I expect Justina will be able to meet with you after you complete your badging with Karen. Depending on how quickly you finish with Karen, I will either be able to meet you when you meet with Justina, or I will ask her to have me come introduce myself as you and she complete your meeting (she will provide

you the actual ethics counseling).

With regard to your question of who will serve as Acting Administrator as of noon January 20th, on Friday, the President signed a new Order of Succession for the EPA. Assuming the President-Elect does not ask any current appointees to remain at the agency until Attorney General Pruitt is confirmed, and that the current President does not exercise his discretion to designate someone else, the first career position in the order is the Deputy Regional Administrator for EPA Region 2. That position is currently occupied by Catherine McCabe, and she will assume the role of Acting Administrator next Friday. When President-Elect Trump is sworn in, he then has the discretion to designate certain agency or government officials to serve in that role. You may find the order of succession here:

<https://www.whitehouse.gov/the-press-office/2017/01/13/executive-order-providing-order-succession-within-environmental>

I look forward to meeting you in the upcoming week.

Kevin

Kevin S. Minoli

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On Jan 14, 2017, at 11:22 PM, Don Benton

Ex. 6 - Personal Privacy

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Hi Kevin,

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I do have a question, who has been designated by the agency as the acting administrator during the confirmation process for Attorney General Pruitt?

Thank you for reaching out, see you soon,

Don

From: Minoli, Kevin [<mailto:Minoli.Kevin@epa.gov>]

Sent: Saturday, January 14, 2017 5:29 PM

To: **Ex. 6 - Personal Privacy**

Cc: Fugh, Justina

Subject: Your anticipated appointment to the United States Environmental Protection Agency

Dear Mr. Benton-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

I am the agency's Designated Agency Ethics Official and Principal Deputy General Counsel, and I have copied Justina Fugh, Senior Counsel for Ethics and the Director of the Office of General Counsel's Ethics Team, on this email. Justina, the Ethics Team, and I are all committed to working with you now, while you are at the EPA, and after you complete your service with the agency to ensure you understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to "ensure that every

citizen can have complete confidence in the integrity of the Federal Government." Our goal as the leaders of the EPA's ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

We anticipate that on Friday, January 20, 2017, you will be appointed to a limited term position with the United States Environmental Protection Agency. As an employee, you will be subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part

2635<http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title05/5cfr2635_main_02.tpl>;

the Hatch Act, 5 USC §

7321<<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title5/pdf/USCODE-2011-title5-partIII-subpartF-chap73-subchapIII-sec7321.pdf>>

et seq., and the conflict of interest statutes codified in Title 18 of the United States Code, including the financial conflicts at 18 USC §

208<<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title18/html/USCODE-2009-title18-partI-chap11-sec208.htm>>

and representational conflicts at 18 USC §§

203<<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title18/html/USCODE-2009-title18-partI-chap11-sec203.htm>>

and

205<<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title18/html/USCODE-2009-title18-partI-chap11-sec205.htm>>.

In order to comply with these requirements, you will need to complete a

public financial disclosure report in INTEGRITY, an online electronic reporting system, and to have an ethics briefing with our team as soon as possible. In addition, when you leave EPA, you will be subject to the post-employment provisions set forth at 18 USC §

207<<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title18/html/USCODE-2009-title18-partI-chap11-sec207.htm>>.

We understand that folks are anxious to get started, and the agency has been asked to undertake all necessary actions to enable you to enter federal service on the afternoon of January 20, 2017. To explain the federal ethics requirements and your obligations to you, and to ensure that your participation in a matter or on an issue does not present any ethics conflicts or appearance of conflicts, the EPA Ethics Team is ready to meet with you beginning Monday January 16, 2017. We will be available each day that week during normal business hours and during the evening if helpful. If you are already in the Washington, DC, area, we would welcome you at our offices at 1200 Pennsylvania Avenue, NW, or at a location nearby if security and preparations for the inauguration make accessing our building difficult. If it is not possible to meet in person, we are available by Skype for Business, Adobe Connect, or the old-fashioned telephone.

Our goal is to meet with all of the individuals identified by the President-Elect's Transition Team prior to January 20, 2017, so that you may begin your federal service that day with the confidence that you are in compliance with all federal ethics requirements. Please let us know when would be best for you, and we will work to accommodate your schedule if at all possible. As always, please also feel free to ask any questions you may have.

Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

Direct Dial: 202-564-5551

To: Ex. 6 - Personal Privacy
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Sun 1/15/2017 1:28:37 AM
Subject: Your anticipated appointment to the United States Environmental Protection Agency

Dear Mr. Benton-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

I am the agency's Designated Agency Ethics Official and Principal Deputy General Counsel, and I have copied Justina Fugh, Senior Counsel for Ethics and the Director of the Office of General Counsel's Ethics Team, on this email. Justina, the Ethics Team, and I are all committed to working with you now, while you are at the EPA, and after you complete your service with the agency to ensure you understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to "ensure that every citizen can have complete confidence in the integrity of the Federal Government." Our goal as the leaders of the EPA's ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

We anticipate that on Friday, January 20, 2017, you will be appointed to a limited term position with the United States Environmental Protection Agency. As an employee, you will be subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635; the Hatch Act, 5 USC § 7321 et seq., and the conflict of interest statutes codified in Title 18 of the United States Code, including the financial conflicts at 18 USC § 208 and representational conflicts at 18 USC §§ 203 and 205. In order to comply with these requirements, you will need to complete a public financial disclosure report in INTEGRITY, an online electronic reporting system, and to have an ethics briefing with our team as soon as possible. In addition, when you leave EPA, you will be subject to the post-employment provisions set forth at 18 USC § 207.

We understand that folks are anxious to get started, and the agency has been asked to undertake all necessary actions to enable you to enter federal service on the afternoon

of January 20, 2017. To explain the federal ethics requirements and your obligations to you, and to ensure that your participation in a matter or on an issue does not present any ethics conflicts or appearance of conflicts, the EPA Ethics Team is ready to meet with you beginning Monday January 16, 2017. We will be available each day that week during normal business hours and during the evening if helpful. If you are already in the Washington, DC, area, we would welcome you at our offices at 1200 Pennsylvania Avenue, NW, or at a location nearby if security and preparations for the inauguration make accessing our building difficult. If it is not possible to meet in person, we are available by Skype for Business, Adobe Connect, or the old-fashioned telephone.

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To: Ericksen, Doug[ericksen.doug@epa.gov]
Cc: Benton, Donald[benton.donald@epa.gov]
From: Fugh, Justina
Sent: Tue 3/7/2017 4:57:00 PM
Subject: REMINDER: You need to sign the Trump ethics pledge
[P45 Executive Order.pdf](#)
[P45 Ethics Pledge blank.pdf](#)

Hi there,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. You are required to sign this pledge, which I have attached together with the executive order itself. Please print out the pledge and then sign and date it, then return to me, either in hard copy or by pdf. The significant points of the Executive Order are as follows:

If you were a federally registered lobbyist in the previous 2 years --

- For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

While you are a federal employee --

- You will not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance.
- For 2 years from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

After you leave federal service --

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign

government or foreign political party as their “agent” requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you.

Thanks in advance for your attention to this important matter.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Bangerter, Layne[bangerter.layne@epa.gov]
Cc: Benton, Donald[benton.donald@epa.gov]
From: Fugh, Justina
Sent: Tue 3/7/2017 4:04:44 PM
Subject: REMINDER: You need to sign the Trump ethics pledge
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> Office of General Counsel
> US Environmental Protection Agency
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> Sent: Sunday, January 15, 2017 12:44 AM
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 > and
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> Kevin S. Minoli
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> Principal Deputy General Counsel
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> Office of General Counsel
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> US Environmental Protection Agency
>
> Office Line: 202-564-8064
>
> Direct Dial: 202-564-5551
>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Printed Name: Don Benton

Signature: Don Benton

Date: 2-22-2017

To: Fort, Daniel[Fort.Daniel@epa.gov]
From: Fugh, Justina
Sent: Tue 2/7/2017 5:31:56 PM
Subject: FW: Ethics question

You might get a call from Don Benton today. He's one of the new politicals. See below.

HE ASKED: On another note, I printed off my [Ex. 6 - Personal Privacy] and wanted you to look over my [Ex. 6 - Personal Privacy] In addition, I [Ex. 6 - Personal Privacy]
[Ex. 6 - Personal Privacy]
[Ex. 6 - Personal Privacy] I do not see any conflict here but wanted to run it by you.

Thanks,

I REPLIED: With respect to your [Ex. 6 - Personal Privacy] OGC/Ethics will be happy to assist you. Dan Fort is the best person (always, when it comes to financials) and he's in the office today until 5 pm. I have a [Ex. 6 - Personal Privacy] so am leaving early, but I'll alert Dan to the fact that you might be in touch. His number is 564 2200 and his email address is fort.daniel@epa.gov. Finally, please let me know whether you exercise any duties or provide any services for that family company. Remember I explained that there is a representational conflict of interest statute? If you actually provide any services for clients back to the United States government, there could be an ethics issue. But if you just [Ex. 6 - Personal Privacy] (but do no representational work yourself), then it may not be a problem.

From: Fugh, Justina
Sent: Tuesday, February 07, 2017 12:31 PM
To: Benton, Donald <benton.donald@epa.gov>
Subject: RE: Ethics question

Hi there,

Yes, the specifics you provided allay concerns about the mingling of official EPA authority with partisan political activity. Please advise the organizers that they cannot promote your keynote speech with any reference to EPA. For example, I once approved an EPA Administrator to speak in his personal capacity at an event. After I cleared the flyer, the organizer changed the

name of the pdf file to read: EPAAdministratorFlyer.pdf . We had no control over the naming of that flyer or the distribution, but it still led to a 2 year investigation by the Office of Special Counsel.

With respect to your [Ex. 6 - Personal Privacy] OGC/Ethics will be happy to assist you. Dan Fort is the best person (always, when it comes to financials) and he's in the office today until 5 pm. I have a medical appointment so am leaving early, but I'll alert Dan to the fact that you might be in touch. His number is 564 2200 and his email address is fort.daniel@epa.gov .

Finally, please let me know whether you exercise any duties or provide any services for that family company. Remember I explained that there is a representational conflict of interest statute? If you actually provide any services for clients back to the United States government, there could be an ethics issue. But if you just [Ex. 6 - Personal Privacy] (but do no representational work yourself), then it may not be a problem.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Benton, Donald
Sent: Tuesday, February 07, 2017 12:17 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Ethics question

Justina,

Just to be clear. The County organization will promote me as Senator Benton, Former Regional Director for the Trump Campaign, and my speech will be exclusively about my personal experiences on the campaign trail prior to me federal employment. My current assignment and

the words "EPA" will not appear in any promotional material or in my remarks to the group. Is this acceptable?

On another note, I printed off my [Ex. 6 - Personal Privacy] and wanted you to look over my [Ex. 6 - Personal Privacy]
[Ex. 6 - Personal Privacy] In addition, I [Ex. 6 - Personal Privacy]
[Ex. 6 - Personal Privacy] I do not
see any conflict here but wanted to run it by you.

Thanks,

Don

Senator Don Benton

Senior White House Advisor

Office of the Administrator

202.564.4711



From: Benton, Donald
Sent: Monday, February 6, 2017 7:17 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Ethics question

Justina, Thank you for this clarification.

Don

Don

Senator Don Benton

Senior White House Advisor

Office of the Administrator

202.564.4711



From: Fugh, Justina

Sent: Friday, February 3, 2017 8:32 PM

To: Benton, Donald <benton.donald@epa.gov>

Subject: RE: Ethics question

Hi there,

Gosh, I'm sorry that it's taken me a few hours to get back to you, but I didn't want to leave for the night without responding. Now that you are a federal employee, you are bound by the Hatch Act which limits unfettered partisan political activity. In order to accept this invitation, you will need to follow these rules:

- You can participate only in your personal capacity. You have to be on your own time (annual leave or leave without pay) during the entirety of the event. Do not mix official business (like checking your EPA email) while engaged in the political activity.
- Yes, you may accept the gift of travel, including airfare and hotel, in your personal capacity. If the gift is reportable under Section 304 of the Federal Election Campaign Act, then you won't have to report it on your next financial disclosure report. You don't have to report gifts on the public financial disclosure report this time (as a new entrant), but next time (as an annual or termination filer), you will have to report gifts, and you will likely have to report the gift of this travel at that time.
- You cannot refer to your EPA position and title, nor can you be introduced by your EPA position and title. Additionally, the organizers cannot use your EPA position and title to promote the event.

- This particular prohibition means that you can't talk as an EPA employee at all. What you can do, carefully, is to speak about your personal experiences as a member of the transition team. To be clear, you can only talk about your personal, individual experiences. Because this is partisan political activity, you are prohibited from using your title or EPA affiliation while participating in the political activity.
- You can never ask for political contributions and, if this is a fundraising event (e.g., they sell tickets), then you need to be super careful. You can't invite other people to come see you speak (because they will have to buy tickets), and we don't want the organizers to include your name on the promotional materials on the same page as their ticket pricing.
- And you may never knowingly encourage or discourage the participation in political activity of any person who has business pending before the Agency.

Bottom line is that it's possible to accept the offer to speak, but you will have to do so in your personal capacity and still abide by the applicable Hatch Act rules.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Benton, Donald
Sent: Friday, February 03, 2017 3:45 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Ethics question
Importance: High

Justina,

The Whatcom County Republican party holds an annual dinner and has asked me to be their keynote speaker and have agreed to pay my airfare and hotel costs for attending. Is this something that is ok or not?

Thanks,

Don

Senator Don Benton

Senior White House Advisor

Office of the Administrator

202.564.4711



Donald Benton OA



Certified by: Justina Fugh
Certificate Dated: 01/18/2017
Certificate ID Number: JFUH-AJ6TCF
Full Organization: OA

According to the EPA Domino Directory,
Contact your local Help Desk if this
organizational information is not correct.

To: Ericksen, Doug[ericksen.doug@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Fort, Daniel
Sent: Fri 4/14/2017 4:17:49 PM
Subject: Re: REMINDER: You owe us information!

Well, you did submit your first draft of the report. But, we sent you back the comments below on 3/17 that you need to respond to. I'm telecommuting today, but I'll can be reached by phone or email. I'm also physically back in the office on Monday.

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

From: Ericksen, Doug
Sent: Friday, April 14, 2017 11:20:43 AM
Cc: Fort, Daniel
Subject: Re: REMINDER: You owe us information!

Dan. When is a good time to talk about correcting my report? I thought I had finished it.
Doug Ericksen

Sent from my iPhone

On Apr 11, 2017, at 10:57 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Doug,
Dan Fort (copied here) is your contact person. If you have your EPA laptop with you, he can help you via Skype for Business.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Monday, April 10, 2017 12:32 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: REMINDER: You owe us information!

Justina,

I will need some help getting this done.

I am on the West Coast right now.

Who should I reach out to for assistance?

Doug Ericksen

From: Fugh, Justina

Sent: Thursday, April 6, 2017 10:44 AM

To: Ericksen, Doug <ericksen.doug@epa.gov>

Subject: REMINDER: You owe us information!

Hi,

On March 17, OGC/Ethics returned your new entrant report to you with comments (see below). You have not yet finalized your report, so we can't certify it. Your report has been requested by the public, so you need to answer our questions so we can certify your report. Otherwise, we may not have any choice but to release it as is.

Comments of Reviewing Officials

PART	#	REFERENCE	COMMENT
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Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries,

use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Ex. 6 - Personal Privacy
Sent: Wed 1/25/2017 3:26:36 PM
Subject: Re: ethics advice

OK. I will work you through my EPA email. Thank you.

Doug Ericksen

Sent on the new Sprint Network

----- Reply message -----

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
To: "Doug Ericksen" <Ex. 6 - Personal Privacy>
Subject: ethics advice
Date: Wed, Jan 25, 2017 10:11 AM

Hi there,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I intend to send you an email to your EPA email address this morning that provides you with specific next steps. Because there is no attorney client privilege that attaches to federal ethics advice,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Doug Ericksen [mailto:Ex. 6 - Personal Privacy]
Sent: Tuesday, January 24, 2017 10:10 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: confirmation of our discussion earlier today

Justina,

Doug Ericksen here.

As you might expect, I am having media inquires regarding EPA ethics and federal rules on staying in my current role in the WA State Senate while serving in my temporary role with the EPA. I am not seeking permanent status with the EPA at the point and will not be receiving health care or other benefits. I have had request from media for an official EPA Ethics opinion. Should I share the email below, or would you like to prepare a different document?

Ericksen.

On Jan 18, 2017, at 6:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

It was a sincere pleasure to meet you earlier today. Here is a quick summary of our discussion:

- We met to talk about your ethics responsibilities as an incoming political appointee. Although you don't yet know exactly what position you will have, I hope you take some comfort in knowing that our meeting met the requirements of 5 CFR 2638.304, initial ethics training, as set forth in the recently effective OGE rules.
- Your spouse is Ex. 6 - Personal Privacy but apart from your part-time job as a Washington State Senator, I don't anticipate any obvious ethics issues for you. But let's talk about your other job!
- You are currently a Washington State Senator, elected to a partisan office. The legislature is currently in session (and will be until 4/23/17). I advised you that you may in fact continue to serve out the remainder of your term, but that once you become a federal employee, you will be subject to the Hatch Act.

That law regulates the political activity of federal employees, and will prohibit you from unfettered involvement in partisan politics. You noted that, as a Washington legislator, you already face certain restraints, and we commented that the federal Hatch Act rules are similar in that you cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. While you may engage in political activity on your own time, I explained that you cannot ever engage in fundraising for partisan candidates, groups or campaigns, even on your own time, or even through social media.

With respect to

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy While you have the authority to use the funds for lawful purposes, you can't use the funds to abscond to the beach. I'm going to need to figure out whether you have to report those funds on your financial disclosure report or not.

For the remainder of this legislative session, I advised you that you can serve and vote, but that you need to be on your own time (either annual leave or leave without pay). Please do not mingle your state duties with your EPA duties. And I noted that, while you are serving the state, you will have a financial conflict of interest with the state (not just the legislature) and cannot work on any particular matter that affects the state as a specific party or as a member of a class (such as rulemaking that affects all states).

I am looking forward to working with you in the future!

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<campaign osc opinion.pdf>

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Doug Ericksen
Sent: Wed 1/25/2017 3:09:31 AM
Subject: Re: confirmation of our discussion earlier today

Justina,
Doug Ericksen here.

As you might expect, I am having media inquires regarding EPA ethics and federal rules on staying in my current role in the WA State Senate while serving in my temporary role with the EPA. I am not seeking permanent status with the EPA at the point and will not be receiving health care or other benefits. I have had request from media for an official EPA Ethics opinion. Should I share the email below, or would you like to prepare a different document?

Ericksen.

On Jan 18, 2017, at 6:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,
It was a sincere pleasure to meet you earlier today. Here is a quick summary of our discussion:

- **We met to talk about your ethics responsibilities as an incoming political appointee. Although you don't yet know exactly what position you will have, I hope you take some comfort in knowing that our meeting met the requirements of 5 CFR 2638.304, initial ethics training, as set forth in the recently effective OGE rules.**
- **Your spouse is Ex. 6 - Personal Privacy but apart from your part-time job as a Washington State Senator, I don't anticipate any obvious ethics issues for you. But let's talk about your other job!**
- **You are currently a Washington State Senator, elected to a partisan office. The legislature is currently in session (and will be until 4/23/17). I advised you that you may in fact continue to serve out the remainder of your term, but that once you become a federal employee, you will be subject to the Hatch Act. That law regulates the political activity of federal employees, and will prohibit you from unfettered involvement in partisan politics. You noted that, as a Washington legislator, you already face certain restraints, and we commented that the federal Hatch Act rules are similar in that you cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. While you may engage in political activity on your own time, I explained that you cannot ever engage in fundraising for partisan candidates, groups or campaigns, even on your own time, or even through social media.**

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy While you have the authority to use the funds for lawful purposes, you can't use the funds to abscond to the beach. I'm going to need to figure out whether you have to report those funds on your financial disclosure report or not.

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I am looking forward to working with you in the future!
Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<campaign osc opinion.pdf>

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Ex. 6 - Personal Privacy
Sent: Wed 1/18/2017 7:38:53 PM
Subject: Re: Senator Ericksen

Can we meet this afternoon?

Doug Ericksen

Ex. 6 - Personal Privacy

Sent on the new Sprint Network

----- Reply message -----

From: "Fugh, Justina" <Fugh.Justina@epa.gov>

To: Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Cc: Ex. 6 - Personal Privacy "Minoli, Kevin"
<Minoli.Kevin@epa.gov>

Subject: Senator Ericksen

Date: Wed, Jan 18, 2017 1:48 PM

Hi there,

Thanks for reaching out, and I've left you a message on your cell phone. I'm available after 2:30 today for sure and tomorrow as well. My contact information is below, and I'm looking forward to talking with you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ex. 6 - Personal Privacy

Sent: Wednesday, January 18, 2017 11:53 AM

To: Ex. 6 - Personal Privacy Minoli, Kevin <Minoli.Kevin@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov> Ex. 6 - Personal Privacy

Subject: Re: Senator Ericksen

Please call when you can so we can find a time to meet.

Doug Ericksen

Ex. 6 - Personal Privacy

Sent on the new Sprint Network

----- Reply message -----

From: **Ex. 6 - Personal Privacy**
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: "Fugh, Justina" <Fugh.Justina@epa.gov>,
Subject: Senator Ericksen
Date: Wed, Jan 18, 2017 11:26 AM

Ex. 6 - Personal Privacy

Kevin and Justina,

I believe Senator Ericksen still needs to go through his ethics meeting. I've cc'd him so that everyone can arrange the meeting time.

Charles Munoz

Ex. 6 - Personal Privacy

To: [Ex. 6 - Personal Privacy] Minoli, Kevin[Minoli.Kevin@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; [Ex. 6 - Personal Privacy]
From: [Ex. 6 - Personal Privacy]
Sent: Wed 1/18/2017 4:52:33 PM
Subject: Re: Senator Ericksen

Please call when you can so we can find a time to meet.

Doug Ericksen
[Ex. 6 - Personal Privacy]

Sent on the new Sprint Network

----- Reply message -----

From: [Ex. 6 - Personal Privacy]
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: "Fugh, Justina" <Fugh.Justina@epa.gov>, [Ex. 6 - Personal Privacy]
[Ex. 6 - Personal Privacy]
Subject: Senator Ericksen
Date: Wed, Jan 18, 2017 11:26 AM

Kevin and Justina,

I believe Senator Ericksen still needs to go through his ethics meeting. I've cc'd him so that everyone can arrange the meeting time.

Charles Munoz
[Ex. 6 - Personal Privacy]

To: Ex. 6 - Personal Privacy
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Tue 1/17/2017 8:26:19 PM
Subject: RE: Your anticipated appointment to the United States Environmental Protection Agency

Hi there,

On behalf of Kevin Minoli, I'm writing to arrange for your ethics briefing with me or someone else on the EPA Ethics team. We are looking forward to meeting you. I am in the office all afternoon and tomorrow. When would you like to talk? We will do our best to accommodate your schedule.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

Begin forwarded message:

From: Doug Ericksen Ex. 6 - Personal Privacy
Date: January 17, 2017 at 7:49:44 AM EST
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: Re: Your anticipated appointment to the United States Environmental Protection Agency

Kevin,

Doug Ericksen here. Is there a good time to talk via phone today?

Doug Ericksen

On Jan 14, 2017, at 5:37 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Dear Mr. Ericksen-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

I am the agency's Designated Agency Ethics Official and Principal Deputy General Counsel, and I have copied Justina Fugh, Senior Counsel for Ethics and the Director of the Office of General Counsel's Ethics Team, on this email. Justina, the Ethics Team, and I are all committed to working with you now, while you are at the EPA, and after you complete your service with the agency to ensure you understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to "ensure that every citizen can have complete confidence in the integrity of the Federal Government." Our goal as the leaders of the EPA's ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

We anticipate that on Friday, January 20, 2017, you will be appointed to a limited term position with the United States Environmental Protection Agency. As an employee, you will be subject to the Standards of Ethical Conduct for Employees of the Executive Branch, [5 CFR Part 2635](#); the Hatch Act, [5 USC § 7321 et seq.](#), and the conflict of interest statutes codified in Title 18 of the United States Code, including the financial conflicts at [18 USC § 208](#) and representational conflicts at [18 USC §§ 203](#) and [205](#). In order to comply with these requirements, you will need to complete a public financial disclosure report in INTEGRITY, an online electronic reporting system, and to have an ethics briefing with our team as soon as possible. In addition, when you leave EPA, you will be subject to the post-employment provisions set forth at [18 USC § 207](#).

We understand that folks are anxious to get started, and the agency has been asked to undertake all necessary actions to enable you to enter federal service on the afternoon of January 20, 2017. To explain the federal ethics requirements and your obligations to you, and to ensure that your participation in a matter or on an issue does not present any ethics conflicts or appearance of conflicts, the EPA Ethics Team is ready to meet with you beginning Monday January 16, 2017. We will be available each day that week during normal business hours and during the evening if helpful. If you are already in the Washington, DC, area, we would welcome you at our offices at 1200 Pennsylvania Avenue, NW, or at a location nearby if security and preparations for the inauguration make accessing our building difficult. If it is not possible to meet in person, we are available by Skype for Business, Adobe Connect, or the old-fashioned telephone.

Our goal is to meet with all of the individuals identified by the President-Elect's Transition Team prior to January 20, 2017, so that you may begin your federal service that day with the confidence that you are in compliance with all federal ethics requirements. Please let us know when would be best for you, and we will work to accommodate your schedule if at all possible. As always, please also feel free to ask any questions you may have.

Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

Direct Dial: 202-564-5551

To: Ex. 6 - Personal Privacy
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Sun 1/15/2017 1:37:45 AM
Subject: Your anticipated appointment to the United States Environmental Protection Agency

Dear Mr. Ericksen-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

I am the agency's Designated Agency Ethics Official and Principal Deputy General Counsel, and I have copied Justina Fugh, Senior Counsel for Ethics and the Director of the Office of General Counsel's Ethics Team, on this email. Justina, the Ethics Team, and I are all committed to working with you now, while you are at the EPA, and after you complete your service with the agency to ensure you understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to "ensure that every citizen can have complete confidence in the integrity of the Federal Government." Our goal as the leaders of the EPA's ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

We anticipate that on Friday, January 20, 2017, you will be appointed to a limited term position with the United States Environmental Protection Agency. As an employee, you will be subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635; the Hatch Act, 5 USC § 7321 et seq., and the conflict of interest statutes codified in Title 18 of the United States Code, including the financial conflicts at 18 USC § 208 and representational conflicts at 18 USC §§ 203 and 205. In order to comply with these requirements, you will need to complete a public financial disclosure report in INTEGRITY, an online electronic reporting system, and to have an ethics briefing with our team as soon as possible. In addition, when you leave EPA, you will be subject to the post-employment provisions set forth at 18 USC § 207.

We understand that folks are anxious to get started, and the agency has been asked to undertake all necessary actions to enable you to enter federal service on the afternoon

of January 20, 2017. To explain the federal ethics requirements and your obligations to you, and to ensure that your participation in a matter or on an issue does not present any ethics conflicts or appearance of conflicts, the EPA Ethics Team is ready to meet with you beginning Monday January 16, 2017. We will be available each day that week during normal business hours and during the evening if helpful. If you are already in the Washington, DC, area, we would welcome you at our offices at 1200 Pennsylvania Avenue, NW, or at a location nearby if security and preparations for the inauguration make accessing our building difficult. If it is not possible to meet in person, we are available by Skype for Business, Adobe Connect, or the old-fashioned telephone.

Our goal is to meet with all of the individuals identified by the President-Elect's Transition Team prior to January 20, 2017, so that you may begin your federal service that day with the confidence that you are in compliance with all federal ethics requirements. Please let us know when would be best for you, and we will work to accommodate your schedule if at all possible. As always, please also feel free to ask any questions you may have.

Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

Direct Dial: 202-564-5551

To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Tue 5/16/2017 9:18:39 PM
Subject: RE: termination report and post employment advice

Oh no!

No, I am not your official notice! I got an email from Charles Munoz that gave me your last day, so I just started to process the information we needed to give you. I had no idea that no one told you yet!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Tuesday, May 16, 2017 4:28 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: termination report and post employment advice

Is this my official notice? Nobody has contacted me

Doug Ericksen

Sent from my iPhone

On May 16, 2017, at 1:05 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

I understand that you will be leaving EPA effective May 20, 2017. We will assign you a termination 278 in INTEGRITY that you must complete no later than 30 days after your last day. Please know that you must complete this report timely or pay a

\$200 late filing fee. In fact, EPA once had to track down a reluctant former employee and, in the end, she had to file the report and pay a hefty civil penalty (\$15,000).

Because you served fewer than 130 days, you were not required to sign the Trump Ethics Pledge. See *Office of Government Ethics advisories DO-09-005 (2/10/19) and LA-17-02 (2/6/17)*. You are therefore not obliged to abide by its restrictions. But you are still bound by two following provisions of the post employment statute:

Permanent restriction at 18 USC 207(a)(1)

• You are prohibited from representing the interests of another back to the United States on any specific party matter that you worked on personally and substantially by making any appearance or communication on their behalf with the intent to influence any federal official. This restriction is permanent, meaning for your lifetime or for the lifetime of the matter, and it applies to all of federal government, not just EPA. It precludes representational activity only, not “behind the scenes” consultation. Please note, however, that as an elected official of Washington State, you will enjoy an exemption that is set forth at 5 CFR 2641.301(b). You will not be prohibited by this restriction if you are acting on behalf of the State government in carrying out your official duties as an elected official.

One year cooling off period with EPA at 18 USC 207(c)

• Because of your type of appointment and duration of service, you are a Special Government Employee (SGE) as defined by 18 USC 202. I understand that your annual salary (GS15/10 with WA locality pay) was \$161,900, which is greater than 85.6% of the annual salary for Executive Level II. According to the Office of Government Ethics, the threshold is \$161,755. See *Office of Government Ethics LA-17-01 (1/5/17)*. Therefore, for post SGE employment purposes, you are a former “senior official” and subject to the one year cooling off period with EPA on all matters, whether you participated in them or not, and whether they are specific party matters or not. For one year, you cannot represent the interests of another back to EPA on anything at all. Please note, though, that, under 5 CFR 2641.301(b), you will not be prohibited by this restriction if you are acting on behalf of the State government in carrying out your official duties as an elected official.

OTHER REMINDERS

- Don't take official records with you! Official records must remain in the custody of the Agency. Within Agency guidelines, you may be given permission to remove extra copies of records or other work-related, non-record materials. However, copies of records that are classified or otherwise restricted (such as under the Privacy Act or subject to privilege) must be maintained in accordance with Agency requirements. You may remove personal materials, such as family and personal correspondence, but must be careful not to remove any official records. The United States government has specific authority to enforce recovery of any unlawfully removed, altered or destroyed records. Talk to your records officer.

- Pursuant to 18 USC 203, you will be prohibited from receiving, either directly or indirectly, any compensation for any "representational services" in connection with any particular matter in which the United States is a party or has a direct and substantial interest. Section 203 applies equally to representational services rendered by you personally or by another person (provided that you share in the compensation for those services), and also prevents the new employer from paying you for any covered representational services that were provided at a time when you were still a Government employee. It does not matter whether or not you provided those representational services.

Thank you for paying attention to your ethics obligations. If you should have any questions regarding your post employment restrictions, please don't hesitate to contact me or anyone at EPA ethics. We can be reached collectively at ethics@epa.gov.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ericksen, Doug[ericksen.doug@epa.gov]
Cc: Daniel Fort[Fort.Daniel@epa.gov]
From: Fugh, Justina
Sent: Tue 5/16/2017 8:05:32 PM
Subject: termination report and post employment advice

Hi there,

I understand that you will be leaving EPA effective May 20, 2017. We will assign you a termination 278 in INTEGRITY that you must complete no later than 30 days after your last day. Please know that you must complete this report timely or pay a \$200 late filing fee. In fact, EPA once had to track down a reluctant former employee and, in the end, she had to file the report and pay a hefty civil penalty (\$15,000).

Because you served fewer than 130 days, you were not required to sign the Trump Ethics Pledge. *See Office of Government Ethics advisories DO-09-005 (2/10/19) and LA-17-02 (2/6/17)*. You are therefore not obliged to abide by its restrictions. But you are still bound by two following provisions of the post employment statute:

Permanent restriction at 18 USC 207(a)(1)

- You are prohibited from representing the interests of another back to the United States on any specific party matter that you worked on personally and substantially by making any appearance or communication on their behalf with the intent to influence any federal official. This restriction is permanent, meaning for your lifetime or for the lifetime of the matter, and it applies to all of federal government, not just EPA. It precludes representational activity only, not “behind the scenes” consultation. Please note, however, that as an elected official of Washington State, you will enjoy an exemption that is set forth at 5 CFR 2641.301(b). You will not be prohibited by this restriction if you are acting on behalf of the State government in carrying out your official duties as an elected official.

One year cooling off period with EPA at 18 USC 207(c)

- Because of your type of appointment and duration of service, you are a Special Government Employee (SGE) as defined by 18 USC 202. I understand that your annual salary (GS15/10 with WA locality pay) was \$161,900, which is greater than 85.6% of the annual salary for Executive Level II. According to the Office of Government Ethics, the threshold is \$161,755. *See Office of Government Ethics LA-17-01 (1/5/17)*. Therefore, for post SGE employment purposes, you are a former “senior official” and subject to the one year cooling off period with EPA on all matters, whether you participated in them or not, and whether they are specific party matters or not. For one year, you cannot represent the interests of another back to EPA on anything at all. Please note, though, that, under 5 CFR 2641.301(b), you will not be prohibited by this restriction if you are acting on behalf

of the State government in carrying out your official duties as an elected official.

OTHER REMINDERS

- Don't take official records with you! Official records must remain in the custody of the Agency. Within Agency guidelines, you may be given permission to remove extra copies of records or other work-related, non-record materials. However, copies of records that are classified or otherwise restricted (such as under the Privacy Act or subject to privilege) must be maintained in accordance with Agency requirements. You may remove personal materials, such as family and personal correspondence, but must be careful not to remove any official records. The United States government has specific authority to enforce recovery of any unlawfully removed, altered or destroyed records. Talk to your records officer.
- Pursuant to 18 USC 203, you will be prohibited from receiving, either directly or indirectly, any compensation for any "representational services" in connection with any particular matter in which the United States is a party or has a direct and substantial interest. Section 203 applies equally to representational services rendered by you personally or by another person (provided that you share in the compensation for those services), and also prevents the new employer from paying you for any covered representational services that were provided at a time when you were still a Government employee. It does not matter whether or not you provided those representational services.

Thank you for paying attention to your ethics obligations. If you should have any questions regarding your post employment restrictions, please don't hesitate to contact me or anyone at EPA ethics. We can be reached collectively at ethics@epa.gov.

Justina

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To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Thur 5/11/2017 9:09:31 PM
Subject: your financial disclosure report

Hi there,

You may recall that I had mentioned to you that, as a public filer, your financial disclosure report can be made available to the public upon request. Well, I'm writing to confirm that your report has been requested and released. OGC/Ethics typically waits to fill those requests until after we have received and certified the report, and I finally got around to releasing a batch of reports on Friday of last week. Here are the people who received your report:

Kevin Bogardus, E&E News
Joe Gaeta, Senator Sheldon Whitehouse
Alison Gregor, ProPublica
Alex Guillen, Politico
Nick Surgey, Center for Media and Democracy

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A |
Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground
deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Fri 5/5/2017 3:23:07 PM
Subject: RE: REMINDER: we do not have have your signed ethics pledge!

Too many things going on, and I forgot that we had in fact talked about this. Okay, if you serve for 130 days or less, then you do NOT have to sign the pledge. You were appointed to a limited term, 120-day appointment that expires on 5/20/17. If you work at EPA beyond 5/31/17, you will have to sign the pledge.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Thursday, May 04, 2017 12:20 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: REMINDER: we do not have have your signed ethics pledge!

Justina. I thought we discussed and since I am temporary I did not have to sign one

Doug Ericksen

Sent from my iPhone

On May 2, 2017, at 12:18 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

We find that we never received your signed ethics pledges. Please print out the attached file and sign it ASAP and then notify me so that I can arrange for pick up.

Thank you,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<P45 Ethics Pledge blank.pdf>

To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Thur 5/4/2017 8:58:39 PM
Subject: RE: REMINDER: we do not have have your signed ethics pledge!

Oh, rats, let me check with the Office of Government Ethics on that question again. Stay tuned.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Thursday, May 04, 2017 12:20 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: REMINDER: we do not have have your signed ethics pledge!

Justina. I thought we discussed and since I am temporary I did not have to sign one

Doug Ericksen

Sent from my iPhone

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Justina

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<P45 Ethics Pledge blank.pdf>

To: Bangerter, Layne[bangerter.layne@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Tue 5/2/2017 7:18:34 PM
Subject: REMINDER: we do not have have your signed ethics pledge!
[P45 Ethics Pledge blank.pdf](#)

Hi there,

We find that we never received your signed ethics pledges. Please print out the attached file and sign it ASAP and then notify me so that I can arrange for pick up.

Thank you,

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ericksen, Doug[ericksen.doug@epa.gov]
Cc: Daniel Fort[Fort.Daniel@epa.gov]
From: Fugh, Justina
Sent: Tue 4/11/2017 5:57:05 PM
Subject: RE: REMINDER: You owe us information!

Hi Doug,

Dan Fort (copied here) is your contact person. If you have your EPA laptop with you, he can help you via Skype for Business.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Monday, April 10, 2017 12:32 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: REMINDER: You owe us information!

Justina,

I will need some help getting this done.

I am on the West Coast right now.

Who should I reach out to for assistance?

Doug Ericksen

From: Fugh, Justina
Sent: Thursday, April 6, 2017 10:44 AM
To: Ericksen, Doug <ericksen.doug@epa.gov>
Subject: REMINDER: You owe us information!

Hi,

On March 17, OGC/Ethics returned your new entrant report to you with comments (see below). You have not yet finalized your report, so we can't certify it. Your report has been requested by the public, so you need to answer our questions so we can certify

your report. Otherwise, we may not have any choice but to release it as is.

Comments of Reviewing Officials

PART	#	REFERENCE	COMMENT
<div>Ex. 6 - Personal Privacy</div>			

Ex. 6 - Personal Privacy

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Bangerter, Layne[bangerter.layne@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]
From: Fugh, Justina
Sent: Fri 4/7/2017 2:41:21 PM
Subject: Your financial disclosure report is due TODAY

Hi there,

You have been receiving weekly reminders from INTEGRITY about your requirement to file your new entrant public financial disclosure report. That report is due 30 days after you start federal employment, but you were each granted a 45-day extension. Your new due date is today, but you have not yet started your report.

If you need another extension, you must ask TODAY (before midnight) by sending me an email that explains why you need more time. If you are approved for an extension, then your new due date will be in May, but that will be the last one. If you are granted an extension by me (and, remember, I need a reason from you for why you need more time), but miss the new deadline, then you will be fined \$200.

Even if you plan to leave federal service soon, you can't escape this requirement. You still have to file the new entrant report AND you will have to file a termination report too. There are criminal and civil penalties for failure to file. Not to sound too ominous, but a former political appointee failed to file her termination report, so I had to refer the matter to the Justice Department after almost 2 years of waiting patiently. Not only did she have to file the report, but she also had to pay a civil penalty of \$15,000. Please don't let that be you!

Justina

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To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Thur 4/6/2017 2:43:50 PM
Subject: REMINDER: You owe us information!

Hi,

On March 17, OGC/Ethics returned your new entrant report to you with comments (see below). You have not yet finalized your report, so we can't certify it. Your report has been requested by the public, so you need to answer our questions so we can certify your report. Otherwise, we may not have any choice but to release it as is.

Comments of Reviewing Officials

PART	#	REFERENCE	COMMENT
<div data-bbox="256 1259 1581 1375"><h1>Ex. 6 - Personal Privacy</h1></div>			

Ex. 6 - Personal Privacy

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ericksen, Doug[ericksen.doug@epa.gov]
Cc: Daniel Fort[Fort.Daniel@epa.gov]
From: Fugh, Justina
Sent: Wed 3/15/2017 8:28:43 PM
Subject: If you're really leaving ...

Then you do NOT have to sign the Trump Ethics Pledge. In fact, anyone else who decides to leave during their 120 day appointment similarly does not have to sign the pledge. I sent a note to Don Benton to let him know, too. For anyone who leaves during this 120 day appointment but who signed the pledge already, I will just destroy their signed pledge since they didn't have to sign it after all.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Tue 3/14/2017 3:01:32 PM
Subject: RE: REMINDER: You need to sign the Trump ethics pledge

Yes.

From: Ericksen, Doug
Sent: Monday, March 13, 2017 2:58 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: REMINDER: You need to sign the Trump ethics pledge

Justina,

Do I need to sign this as I am only a temporary employee?

Doug Ericksen

From: Fugh, Justina
Sent: Tuesday, March 7, 2017 11:57 AM
To: Ericksen, Doug <ericksen.doug@epa.gov>
Cc: Benton, Donald <benton.donald@epa.gov>
Subject: REMINDER: You need to sign the Trump ethics pledge

Hi there,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. You are required to sign this pledge, which I have attached together with the executive order itself. Please print out the pledge and then sign and date it, then return to me, either in hard copy or by pdf. The significant points of the Executive Order are as follows:

If you were a federally registered lobbyist in the previous 2 years --

- For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

While you are a federal employee --

- You will not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance.
- For 2 years from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

After you leave federal service --

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their "agent" requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you.

Thanks in advance for your attention to this important matter.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ericksen, Doug[ericksen.doug@epa.gov]
Cc: Benton, Donald[benton.donald@epa.gov]
From: Fugh, Justina
Sent: Tue 3/7/2017 4:57:00 PM
Subject: REMINDER: You need to sign the Trump ethics pledge
[P45 Executive Order.pdf](#)
[P45 Ethics Pledge blank.pdf](#)

Hi there,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. You are required to sign this pledge, which I have attached together with the executive order itself. Please print out the pledge and then sign and date it, then return to me, either in hard copy or by pdf. The significant points of the Executive Order are as follows:

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While you are a federal employee --

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- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign

government or foreign political party as their “agent” requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you.

Thanks in advance for your attention to this important matter.

Justina

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To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Thur 2/9/2017 3:11:18 AM
Subject: RE: recusal statement to sign; approval of outside activity

Hi there,

The answer is not dependent on how many days you work at EPA, but rather how often you are paid by the outside entity. If Washington State pays you in one lump sum during the 120 days that you work at EPA, we've got a problem. But if they pay you every two weeks, so that during the 120 period, you don't exceed the \$27,765 number, we'll be fine.

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Tuesday, February 07, 2017 7:58 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: recusal statement to sign; approval of outside activity

Justina,

Thank you for the information you have provided.

I have one question with regards to compensation from outside work. If I only work at EPA for the 120 days or less that is included in my temporary appointment, would I still exceed the amount permitted by law to accept?

Doug Ericksen

From: Fugh, Justina
Sent: Monday, February 6, 2017 8:25 PM
To: Ericksen, Doug <ericksen.doug@epa.gov>
Subject: recusal statement to sign; approval of outside activity

Hi there,

Here is the recusal statement on letterhead for you to print out, sign and date then return to me, please. Also, here is the approval of your outside activity. Please note that you must be mindful of your Hatch Act obligations now that you are federal employee and that you are subject to the outside earned income cap per year. Your Washington State salary, if you earned it over the course of the entire year and continued to work at EPA, will exceed what you are permitted by law to accept. I've also included a handy Hatch Act chart to remind you of those obligations.
justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Friday, January 27, 2017 8:58 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Ethics -- next steps now that you are an EPA employee

Justina,

I currently serve as a temporary special advisor to the administrator with the EPA. I am the

communications lead for the Transition Team. I am also a sitting State Senator in Washington State and I wish to continue to serve as State Senator while a temporary employee at the EPA.

Here are the answers to the questions you provided.

- your name, EPA title and grade (meaning your type of appointment and pay grade);

Special Advisor to the Administrator and Transition Team Communications Lead. Temporary Appointment. GS15

- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;

State Senator for the Washington State. Typically duties of a State Senator. Compensation is a set by Washington State law at \$45,000 per year.

- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months);

Washington State Senate. People of the 42nd Legislative District.

- the estimated time to be devoted to the activity;

Variable on a week to week basis. No work to be conducted during EPA hours without taking leave.

● whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required);

All work done outside of duty hours unless taking a leave day.

● a statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;

I will use no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment.

● the basis for compensation (e.g., fee, per diem, per annum, etc.)

Per annum salary

● a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on "Outside Activities") and Section 6401.103 (EPA's Supplemental Regulations); and

I have read, understand, and will abide by the restrictions described in 5 CFR part 2635 and section 6401-103.

● an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided (if you don't know, then just say you are not personally aware of any).

I am not aware of any.

From: Fugh, Justina
Sent: Wednesday, January 25, 2017 10:46 AM
To: Ericksen, Doug <ericksen.doug@epa.gov>
Subject: Ethics -- next steps now that you are an EPA employee

Hi there,

Now that you are officially sworn in as an EPA employee, I want to provide you with specific ethics advice:

- 1) Submit your new entrant public financial disclosure report in INTEGRITY. We noticed that you haven't started that yet, so don't forget that it is due on 2/21/17. If you need an extension, you have to ask me before the expiration of the deadline. The account is currently set up with your personal email address as the user ID. Unless we hear from you otherwise today, we will change the user ID to your EPA email address. That way, if we have questions or comments about your submission, we can communicate with you through INTEGRITY using your EPA email.
- 2) Because you want to continue to serve as an elected Washington State Senator, you must seek approval of that outside activity by following specified rules. Please send me an email that provides the following information:
 - your name, EPA title and grade (meaning your type of appointment and pay grade);
 - the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;
 - the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months);
 - the estimated time to be devoted to the activity;
 - whether the service will be performed entirely outside of normal duty hours (if not, estimate the

number of hours of absence from work required);

- a statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;

- the basis for compensation (e.g., fee, per diem, per annum, etc.)

- a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on "Outside Activities") and Section 6401.103 (EPA's Supplemental Regulations); and

- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided (if you don't know, then just say you are not personally aware of any).

- I need that information as soon as possible so that I can officially clear you to continue to serve in your elected position. Once I hear from you, I can issue you a determination that is releasable under FOIA and therefore also to the media.

- To remind, EPA will permit you to continue to serve since you were elected prior to joining EPA, but as we discussed last week, you are now subject to the Hatch Act. That law regulates the political activity of federal employees and prohibits you from unfettered involvement in partisan politics. You cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. While you may engage in political activity on your own time (meaning the weekend, after business hours if off EPA premises, or while on leave or leave without pay), you are now subject to certain 24/7 restrictions. While you are a federal employee, you are prohibited from running for future partisan office and cannot solicit, accept or receive political contributions or engage in any partisan fundraising. Please do not mingle your state duties with your EPA duties.

- With respect to your other ethical obligations, I remind you that you have a financial conflict of interest with the State of Washington, so cannot participate personally and substantially in any particular matter that affects Washington as a specific party or as a member of a class. Attached is a recusal statement for you to review. Typically, these recusal statements are sent to your supervisor, but I'm not sure who that is (perhaps Mr. Benton?). If there are any changes to make, just let me know and I'll take care of it, then send the revised version back to you for signature.

Thanks for paying attention to ethics issues!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Tue 2/7/2017 1:25:23 AM
Subject: recusal statement to sign; approval of outside activity
draft recusal statement.docx
approval of outside activity Feb 2017.pdf
Hatch Act chart December 2015.docx

Hi there,

Here is the recusal statement on letterhead for you to print out, sign and date then return to me, please. Also, here is the approval of your outside activity. Please note that you must be mindful of your Hatch Act obligations now that you are federal employee and that you are subject to the outside earned income cap per year. Your Washington State salary, if you earned it over the course of the entire year and continued to work at EPA, will exceed what you are permitted by law to accept. I've also included a handy Hatch Act chart to remind you of those obligations.
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ericksen, Doug
Sent: Friday, January 27, 2017 8:58 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Ethics -- next steps now that you are an EPA employee

Justina,

I currently serve as a temporary special advisor to the administrator with the EPA. I am the communications lead for the Transition Team. I am also a sitting State Senator in Washington State and I wish to continue to serve as State Senator while a temporary employee at the EPA.

Here are the answers to the questions you provided.

- your name, EPA title and grade (meaning your type of appointment and pay grade);

Special Advisor to the Administrator and Transition Team Communications Lead. Temporary Appointment. GS15

- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;

State Senator for the Washington State. Typically duties of a State Senator. Compensation is set by Washington State law at \$45,000 per year.

- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months);

Washington State Senate. People of the 42nd Legislative District.

- the estimated time to be devoted to the activity;

Variable on a week to week basis. No work to be conducted during EPA hours without taking leave.

- whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required);

All work done outside of duty hours unless taking a leave day.

● a statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;

I will use no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment.

● the basis for compensation (e.g., fee, per diem, per annum, etc.)

Per annum salary

● a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on “Outside Activities”) and Section 6401.103 (EPA’s Supplemental Regulations); and

I have read, understand, and will abide by the restrictions described in 5 CFR part 2635 and section 6401-103.

● an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided (if you don’t know, then just say you are not personally aware of any).

I am not aware of any.

From: Fugh, Justina
Sent: Wednesday, January 25, 2017 10:46 AM
To: Ericksen, Doug <ericksen.doug@epa.gov>
Subject: Ethics -- next steps now that you are an EPA employee

Hi there,

Now that you are officially sworn in as an EPA employee, I want to provide you with specific ethics advice:

1) Submit your new entrant public financial disclosure report in INTEGRITY. We noticed that you haven't started that yet, so don't forget that it is due on 2/21/17. If you need an extension, you have to ask me before the expiration of the deadline. The account is currently set up with your personal email address as the user ID. Unless we hear from you otherwise today, we will change the user ID to your EPA email address. That way, if we have questions or comments about your submission, we can communicate with you through INTEGRITY using your EPA email.

2) Because you want to continue to serve as an elected Washington State Senator, you must seek approval of that outside activity by following specified rules. Please send me an email that provides the following information:

- your name, EPA title and grade (meaning your type of appointment and pay grade);
- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;
- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months);
- the estimated time to be devoted to the activity;
- whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required);
- a statement that no official duty time or Government property, resources, or facilities not

available to the general public will be used in connection with the outside employment;

- the basis for compensation (e.g., fee, per diem, per annum, etc.)
 - a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on "Outside Activities") and Section 6401.103 (EPA's Supplemental Regulations); and
 - an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided (if you don't know, then just say you are not personally aware of any).
-
- I need that information as soon as possible so that I can officially clear you to continue to serve in your elected position. Once I hear from you, I can issue you a determination that is releasable under FOIA and therefore also to the media.
 - To remind, EPA will permit you to continue to serve since you were elected prior to joining EPA, but as we discussed last week, you are now subject to the Hatch Act. That law regulates the political activity of federal employees and prohibits you from unfettered involvement in partisan politics. You cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. While you may engage in political activity on your own time (meaning the weekend, after business hours if off EPA premises, or while on leave or leave without pay), you are now subject to certain 24/7 restrictions. While you are a federal employee, you are prohibited from running for future partisan office and cannot solicit, accept or receive political contributions or engage in any partisan fundraising. Please do not mingle your state duties with your EPA duties.
 - With respect to your other ethical obligations, I remind you that you have a financial conflict of interest with the State of Washington, so cannot participate personally and substantially in any particular matter that affects Washington as a specific party or as a member of a class. Attached is a recusal statement for you to review. Typically, these recusal statements are sent to your supervisor, but I'm not sure who that is (perhaps Mr. Benton?). If there are any changes to make, just let me know and I'll take care of it, then send the revised version back to you for signature.

Thanks for paying attention to ethics issues!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

FEB 06 2017

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Approval of Outside Activity

FROM: Justina Fugh *Justina Fugh*
Alternate Designated Agency Ethics Official

TO: Doug Ericksen
Special Advisor to the Administrator and
Transition Team Communications Lead
Office of the Administrator

I received your request of January 27, 2017, to engage in outside activity for compensation as a State Senator for the State of Washington, which is a partisan position. You wish to continue to serve on your own time and not using any EPA resources. In exchange for your services, Washington State law provides that you will be compensated in the amount of \$45,000 per year. That amount exceeds the outside earned income limit.

Based on the information you have provided, I am approving your request for outside activity, provided that you abide by the applicable ethics rules, including the outside earned income cap, and the Hatch Act obligations set forth below:

You are subject to the outside earned income cap

You are currently a Schedule C appointee at EPA, which means that you are a "covered noncareer employee" subject to the outside earned income limitations set forth at 5 CFR § 2635.804. Under this provision, you cannot receive any compensation for, among other things, practicing a profession that involves a fiduciary relationship or affiliating with or being employed by a firm that provides professional services involving a fiduciary duty.

In addition, you are subject to the outside earned income limit, which is currently \$27,765 per annum. Based on the information you provided, and the fact that you are currently serving in a 120-day limited term appointment, I do not expect your income from this outside compensated entity to exceed the cap. But if you

remain in this Administration, then you will not be permitted to collect your full Washington State salary. You will be capped at \$27,765.

You are subject to the Hatch Act

By this memorandum, I am also confirming the advice I provided to you previously. Because you were already elected to partisan state office prior to becoming a federal employee, you are permitted to retain the position. You are, however, now bound by the Hatch Act, which regulates the political activity of federal employees and prohibits you from unfettered involvement in partisan politics. Although you may engage in political activity on your own time (meaning the weekend, after business hours if off EPA premises, or while on leave or leave without pay), you are now subject to certain 24/7 restrictions.

You cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. Now that you are a federal employee, you are prohibited from running for future partisan office and cannot solicit, accept or receive political contributions or engage in any partisan fundraising, even on your own time. I reminded you that you cannot mingle your state duties with your EPA duties.

You are subject to the financial conflicts of interest

Because you will be compensated by the State of Washington, you have a financial conflict of interest. You cannot participate in your EPA duties in any matter that will have a direct and predictable financial effect upon the State. You cannot work on particular matters that involve the State as a specific party (e.g., whether an EPA official speak with a Washington State agency or department), nor can you work on particular matters of general applicability (e.g., a rulemaking that affects all states).

You will need to report the income from this outside activity on Schedule A of your financial disclosure statement, and the outside position on Schedule D.

Representation back to the United States

Don't forget, you are generally prohibited by a criminal law from representing another entity back to the federal government in any matter in which the United States is a party or has a direct and substantial interest. See 18 USC §§ 203 and 205. In your capacity as a Washington State Senator, you cannot contact or represent back to any US government official on behalf of the State in connection with any matter in which the United States is a party or has a direct and substantial interest.

Misuse of Position

You cannot use your EPA position, title or affiliation in connection with the outside political activity. See 5 CFR § 2635.807(b) and 5 CFR § 734.302. Because you will be compensated, and because this employment involves partisan political activity, you can never use any EPA equipment, including phones, workspace, computer, and time. The Agency's Limited Personal Use of Equipment policy states clearly that there is no *de minimis* use of EPA equipment or property to further any compensated outside or political activity. See <http://intranet.epa.gov/oei/imitpolicy/qic/ciopolicy/2101-0.pdf>.

* * * * *

As always, if you have any questions, please feel free to contact me at 564-1786.

To: Ericksen, Doug[ericksen.doug@epa.gov]
From: Fugh, Justina
Sent: Wed 1/25/2017 3:45:50 PM
Subject: Ethics -- next steps now that you are an EPA employee
[Hatch Act chart December 2015.docx](#)
[Ericksen recusal.doc](#)

Hi there,

Now that you are officially sworn in as an EPA employee, I want to provide you with specific ethics advice:

1) Submit your new entrant public financial disclosure report in INTEGRITY. We noticed that you haven't started that yet, so don't forget that it is due on 2/21/17. If you need an extension, you have to ask me before the expiration of the deadline. The account is currently set up with your personal email address as the user ID. Unless we hear from you otherwise today, we will change the user ID to your EPA email address. That way, if we have questions or comments about your submission, we can communicate with you through INTEGRITY using your EPA email.

2) Because you want to continue to serve as an elected Washington State Senator, you must seek approval of that outside activity by following specified rules. Please send me an email that provides the following information:

- your name, EPA title and grade (meaning your type of appointment and pay grade);
- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;
- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months);
- the estimated time to be devoted to the activity;
- whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required);
- a statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment;
- the basis for compensation (e.g., fee, per diem, per annum, etc.)

- a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 ([Subpart H on “Outside Activities”](#)) and Section 6401.103 ([EPA’s Supplemental Regulations](#)); and

- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided (if you don’t know, then just say you are not personally aware of any).

- I need that information as soon as possible so that I can officially clear you to continue to serve in your elected position. Once I hear from you, I can issue you a determination that is releasable under FOIA and therefore also to the media.
- To remind, EPA will permit you to continue to serve since you were elected prior to joining EPA, but as we discussed last week, you are now subject to the Hatch Act. That law regulates the political activity of federal employees and prohibits you from unfettered involvement in partisan politics. You cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. While you may engage in political activity on your own time (meaning the weekend, after business hours if off EPA premises, or while on leave or leave without pay), you are now subject to certain 24/7 restrictions. While you are a federal employee, you are prohibited from running for future partisan office and cannot solicit, accept or receive political contributions or engage in any partisan fundraising. Please do not mingle your state duties with your EPA duties.
- With respect to your other ethical obligations, I remind you that you have a financial conflict of interest with the State of Washington, so cannot participate personally and substantially in any particular matter that affects Washington as a specific party or as a member of a class. Attached is a recusal statement for you to review. Typically, these recusal statements are sent to your supervisor, but I’m not sure who that is (perhaps Mr. Benton?). If there are any changes to make, just let me know and I’ll take care of it, then send the revised version back to you for signature.

Thanks for paying attention to ethics issues!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the

zip code) | phone 202-564-1786 | fax 202-564-1772

To: **Ex. 6 - Personal Privacy**
From: Fugh, Justina
Sent: Wed 1/25/2017 3:11:44 PM
Subject: ethics advice

Hi there,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

I intend to send you an email to your EPA email address this morning that provides you with specific next steps. Because there is no attorney client privilege that attaches to federal ethics advice,

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Doug Ericksen **Ex. 6 - Personal Privacy**
Sent: Tuesday, January 24, 2017 10:10 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: confirmation of our discussion earlier today

Justina,

Doug Ericksen here.

As you might expect, I am having media inquire regarding EPA ethics and federal rules on

staying in my current role in the WA State Senate while serving in my temporary role with the EPA. I am not seeking permanent status with the EPA at the point and will not be receiving health care or other benefits. I have had request from media for an official EPA Ethics opinion. Should I share the email below, or would you like to prepare a different document?

Ericksen.

On Jan 18, 2017, at 6:32 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

It was a sincere pleasure to meet you earlier today. Here is a quick summary of our discussion:

- We met to talk about your ethics responsibilities as an incoming political appointee. Although you don't yet know exactly what position you will have, I hope you take some comfort in knowing that our meeting met the requirements of 5 CFR 2638.304, initial ethics training, as set forth in the recently effective OGE rules.
- Your spouse is a Ex. 6 - Personal Privacy but apart from your part-time job as a Washington State Senator, I don't anticipate any obvious ethics issues for you. But let's talk about your other job!
- You are currently a Washington State Senator, elected to a partisan office. The legislature is currently in session (and will be until 4/23/17). I advised you that you may in fact continue to serve out the remainder of your term, but that once you become a federal employee, you will be subject to the Hatch Act. That law regulates the political activity of federal employees, and will prohibit you from unfettered involvement in partisan politics. You noted that, as a Washington legislator, you already face certain restraints, and we commented that the federal Hatch Act rules are similar in that you cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. While you may engage in political activity on your own time, I explained that you cannot ever engage in fundraising for partisan candidates, groups or campaigns, even on your own time, or even through social media.

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy While you have the authority to use the funds for lawful purposes, you can't use the funds to abscond to the beach. I'm going to need to figure out whether you have to report those funds on your financial disclosure report or not.

For the remainder of this legislative session, I advised you that you can serve and vote, but that you need to be on your own time (either annual leave or leave without pay). Please do not mingle your state duties with your EPA duties. And I noted that, while you are serving the state, you will have a financial conflict of interest with the state (not just the legislature) and cannot work on any particular matter that affects the state as a specific party or as a member of a class (such as rulemaking that affects all states).

I am looking forward to working with you in the future!

Cheers,
Justina

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<campaign osc opinion.pdf>

To: [REDACTED] **Ex. 6 - Personal Privacy**
[REDACTED] **Ex. 6 - Personal Privacy**
From: Fugh, Justina
Sent: Thur 1/19/2017 2:32:04 AM
Subject: confirmation of our discussion earlier today
[campaign osc opinion.pdf](#)

Hi there,

It was a sincere pleasure to meet you earlier today. Here is a quick summary of our discussion:

- We met to talk about your ethics responsibilities as an incoming political appointee. Although you don't yet know exactly what position you will have, I hope you take some comfort in knowing that our meeting met the requirements of 5 CFR 2638.304, initial ethics training, as set forth in the recently effective OGE rules.
- Your spouse is [REDACTED] but apart from your part-time job as a Washington State Senator, I don't anticipate any obvious ethics issues for you. But let's talk about your other job!
- You are currently a Washington State Senator, elected to a partisan office. The legislature is currently in session (and will be until 4/23/17). I advised you that you may in fact continue to serve out the remainder of your term, but that once you become a federal employee, you will be subject to the Hatch Act. That law regulates the political activity of federal employees, and will prohibit you from unfettered involvement in partisan politics. You noted that, as a Washington legislator, you already face certain restraints, and we commented that the federal Hatch Act rules are similar in that you cannot undertake any activity that is directed at the success or failure of a partisan political candidate, group or campaign while on EPA property, using EPA equipment, or on EPA time. While you may engage in political activity on your own time, I explained that you cannot ever engage in fundraising for partisan candidates, groups or campaigns, even on your own time, or even through social media.

Ex. 6 - Personal Privacy

While you have the authority to use the funds for lawful purposes, you can't use the funds to abscond to the beach. I'm going to need to figure out whether you have to report those funds on your financial disclosure report or not.

For the remainder of this legislative session, I advised you that you can serve and vote,

but that you need to be on your own time (either annual leave or leave without pay). Please do not mingle your state duties with your EPA duties. And I noted that, while you are serving the state, you will have a financial conflict of interest with the state (not just the legislature) and cannot work on any particular matter that affects the state as a specific party or as a member of a class (such as rulemaking that affects all states).

I am looking forward to working with you in the future!

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ex. 6 - Personal Privacy
From: Fugh, Justina
Sent: Wed 1/18/2017 7:46:36 PM
Subject: RE: Senator Ericksen

Hi,

We are located at 1200 Pennsylvania Avenue, NW, in Washington, DC., which is the William Jefferson Clinton North Building. The main visitor entrance to the North Building is located directly above the Federal Triangle Metro Station, which is on 12th Street midway between Pennsylvania and Constitution Avenues. Please proceed into the North building where you will be greeted by our security staff. As a guest, you will need to present a photo ID and proceed through the metal detectors. Please tell the guards that you are there to meet with me, and they will let me know that you arrived. I will come down and meet you at the main entrance and escort you up to our offices. While they should not need to ask you, if the guards do ask whether you have a contact number to call, you may give them 564-1786 (which is my direct line).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ex. 6 - Personal Privacy
Sent: Wednesday, January 18, 2017 2:39 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Senator Ericksen

Can we meet this afternoon?

Doug Ericksen

Ex. 6 - Personal Privacy

Sent on the new Sprint Network

----- Reply message -----

From: "Fugh, Justina" <Fugh.Justina@epa.gov>

To: Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Cc: Ex. 6 - Personal Privacy "Minoli, Kevin"
<Minoli.Kevin@epa.gov>

Subject: Senator Ericksen

Date: Wed, Jan 18, 2017 1:48 PM

Hi there,

Thanks for reaching out, and I've left you a message on your cell phone. I'm available after 2:30 today for sure and tomorrow as well. My contact information is below, and I'm looking forward to talking with you.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ex. 6 - Personal Privacy

Sent: Wednesday, January 18, 2017 11:53 AM

To: Ex. 6 - Personal Privacy Minoli, Kevin <Minoli.Kevin@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov> Ex. 6 - Personal Privacy

Subject: Re: Senator Ericksen

Please call when you can so we can find a time to meet.

Doug Ericksen

Ex. 6 - Personal Privacy

Sent on the new Sprint Network

----- Reply message -----

From: Ex. 6 - Personal Privacy

To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>

Cc: "Fugh, Justina" <Fugh.Justina@epa.gov>

Ex. 6 - Personal Privacy

Subject: Senator Ericksen

Date: Wed, Jan 18, 2017 11:26 AM

Kevin and Justina,

I believe Senator Ericksen still needs to go through his ethics meeting. I've cc'd him so that everyone can arrange the meeting time.

Charles Munoz

Ex. 6 - Personal Privacy

To: Ex. 6 - Personal Privacy
Ex. 6 - Personal Privacy
Cc: Ex. 6 - Personal Privacy Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Wed 1/18/2017 6:48:37 PM
Subject: RE: Senator Ericksen

Hi there,

Thanks for reaching out, and I've left you a message on your cell phone. I'm available after 2:30 today for sure and tomorrow as well. My contact information is below, and I'm looking forward to talking with you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ex. 6 - Personal Privacy
Sent: Wednesday, January 18, 2017 11:53 AM
To: Ex. 6 - Personal Privacy Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Ex. 6 - Personal Privacy
Subject: Re: Senator Ericksen

Please call when you can so we can find a time to meet.

Doug Ericksen

Ex. 6 - Personal Privacy

Sent on the new Sprint Network

----- Reply message -----

From: Ex. 6 - Personal Privacy
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: "Fugh, Justina" <Fugh.Justina@epa.gov>; Ex. 6 - Personal Privacy
Subject: Senator Ericksen
Date: Wed, Jan 18, 2017 11:26 AM

Kevin and Justina,

I believe Senator Ericksen still needs to go through his ethics meeting. I've cc'd him so that everyone can arrange the meeting time.

Charles Munoz

Ex. 6 - Personal Privacy

To: Ex. 6 - Personal Privacy
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Tue 1/17/2017 8:26:19 PM
Subject: RE: Your anticipated appointment to the United States Environmental Protection Agency

Hi there,

On behalf of Kevin Minoli, I'm writing to arrange for your ethics briefing with me or someone else on the EPA Ethics team. We are looking forward to meeting you. I am in the office all afternoon and tomorrow. When would you like to talk? We will do our best to accommodate your schedule.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

Begin forwarded message:

From: Doug Ericksen Ex. 6 - Personal Privacy
Date: January 17, 2017 at 7:49:44 AM EST
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: Re: Your anticipated appointment to the United States Environmental Protection Agency

Kevin,

Doug Ericksen here. Is there a good time to talk via phone today?

Doug Ericksen

On Jan 14, 2017, at 5:37 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Dear Mr. Ericksen-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

I am the agency's Designated Agency Ethics Official and Principal Deputy General Counsel, and I have copied Justina Fugh, Senior Counsel for Ethics and the Director of the Office of General Counsel's Ethics Team, on this email. Justina, the Ethics Team, and I are all committed to working with you now, while you are at the EPA, and after you complete your service with the agency to ensure you understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to "ensure that every citizen can have complete confidence in the integrity of the Federal Government." Our goal as the leaders of the EPA's ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

We anticipate that on Friday, January 20, 2017, you will be appointed to a limited term position with the United States Environmental Protection Agency. As an employee, you will be subject to the Standards of Ethical Conduct for Employees of the Executive Branch, [5 CFR Part 2635](#); the Hatch Act, [5 USC § 7321 et seq.](#), and the conflict of interest statutes codified in Title 18 of the United States Code, including the financial conflicts at [18 USC § 208](#) and representational conflicts at [18 USC §§ 203](#) and [205](#). In order to comply with these requirements, you will need to complete a public financial disclosure report in INTEGRITY, an online electronic reporting system, and to have an ethics briefing with our team as soon as possible. In addition, when you leave EPA, you will be subject to the post-employment provisions set forth at [18 USC § 207](#).

We understand that folks are anxious to get started, and the agency has been asked to undertake all necessary actions to enable you to enter federal service on the afternoon of January 20, 2017. To explain the federal ethics requirements and your obligations to you, and to ensure that your participation in a matter or on an issue does not present any ethics conflicts or appearance of conflicts, the EPA Ethics Team is ready to meet with you beginning Monday January 16, 2017. We will be available each day that week during normal business hours and during the evening if helpful. If you are already in the Washington, DC, area, we would welcome you at our offices at 1200 Pennsylvania Avenue, NW, or at a location nearby if security and preparations for the inauguration make accessing our building difficult. If it is not possible to meet in person, we are available by Skype for Business, Adobe Connect, or the old-fashioned telephone.

Our goal is to meet with all of the individuals identified by the President-Elect's Transition Team prior to January 20, 2017, so that you may begin your federal service that day with the confidence that you are in compliance with all federal ethics requirements. Please let us know when would be best for you, and we will work to accommodate your schedule if at all possible. As always, please also feel free to ask any questions you may have.

Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel

Office of General Counsel

US Environmental Protection Agency

Office Line: 202-564-8064

Direct Dial: 202-564-5551

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Doug Ericksen
Sent: Tue 1/17/2017 12:49:44 PM
Subject: Re: Your anticipated appointment to the United States Environmental Protection Agency

Kevin,
Doug Ericksen here. Is there a good time to talk via phone today?

Doug Ericksen

Ex. 6 - Personal Privacy

On Jan 14, 2017, at 5:37 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Dear Mr. Ericksen-

Your name was included on a list of individuals identified by the President-Elect's Transition Team as one of the non-career officials expected to join the United States Environmental Protection Agency (EPA) on or about January 20, 2017. Let me be one of the first to say "Welcome to the EPA!"

I am the agency's Designated Agency Ethics Official and Principal Deputy General Counsel, and I have copied Justina Fugh, Senior Counsel for Ethics and the Director of the Office of General Counsel's Ethics Team, on this email. Justina, the Ethics Team, and I are all committed to working with you now, while you are at the EPA, and after you complete your service with the agency to ensure you understand the federal ethics requirements, how they apply to you at that point in time and based on your specific circumstances, and how you can comply with those requirements. For some of the federal ethics requirements, a violation of the requirement is a criminal violation, and we would be legally obligated to refer that violation to our Office of Inspector General. Regardless of the penalty, though, the federal ethics requirements were, in the words of President George Bush in Executive Order 12,674, designed to "ensure that every citizen can have complete confidence in the integrity of the Federal Government." Our goal as the leaders of the EPA's ethics program is to provide you with excellent customer service from this point forward to help achieve that vision.

We anticipate that on Friday, January 20, 2017, you will be appointed to a limited term position with the United States Environmental Protection Agency. As an employee, you will be subject to the Standards of Ethical

Conduct for Employees of the Executive Branch, 5 CFR Part 2635; the Hatch Act, 5 USC § 7321 et seq., and the conflict of interest statutes codified in Title 18 of the United States Code, including the financial conflicts at 18 USC § 208 and representational conflicts at 18 USC §§ 203 and 205. In order to comply with these requirements, you will need to complete a public financial disclosure report in INTEGRITY, an online electronic reporting system, and to have an ethics briefing with our team as soon as possible. In addition, when you leave EPA, you will be subject to the post-employment provisions set forth at 18 USC § 207.

We understand that folks are anxious to get started, and the agency has been asked to undertake all necessary actions to enable you to enter federal service on the afternoon of January 20, 2017. To explain the federal ethics requirements and your obligations to you, and to ensure that your participation in a matter or on an issue does not present any ethics conflicts or appearance of conflicts, the EPA Ethics Team is ready to meet with you beginning Monday January 16, 2017. We will be available each day that week during normal business hours and during the evening if helpful. If you are already in the Washington, DC, area, we would welcome you at our offices at 1200 Pennsylvania Avenue, NW, or at a location nearby if security and preparations for the inauguration make accessing our building difficult. If it is not possible to meet in person, we are available by Skype for Business, Adobe Connect, or the old-fashioned telephone.

Our goal is to meet with all of the individuals identified by the President-Elect's Transition Team prior to January 20, 2017, so that you may begin your federal service that day with the confidence that you are in compliance with all federal ethics requirements. Please let us know when would be best for you, and we will work to accommodate your schedule if at all possible. As always, please also feel free to ask any questions you may have.

Thank you, and we look forward to working with you soon.

Kevin

Kevin S. Minoli

**Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Office Line: 202-564-8064
Direct Dial: 202-564-5551**

To: Fort, Daniel[Fort.Daniel@epa.gov]
From: Ericksen, Doug
Sent: Mon 5/8/2017 5:57:16 PM
Subject: Re: OK, I sent it along to Justina Fugh. Just one question about a holding

Thanks. I am working on it.

Sent from my iPhone

> On May 8, 2017, at 1:43 PM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:

>

> I'm not sure about how your appointment affects what kind of card you get, but you should check with the badging office in the basement of EPA East. HR should be able to help you as well. It should be open until 4PM. Here's the relevant information:

>

> Federal Triangle Complex

> WJC East, Room B317 (basement)

> Phone: (202) 564-2206

> Questions can be sent to: HQ_Badge_Office@epa.gov

>

> Dan

> -----Original Message-----

> From: Ericksen, Doug

> Sent: Monday, May 08, 2017 1:37 PM

> To: Fort, Daniel <Fort.Daniel@epa.gov>

> Subject: Re: OK, I sent it along to Justina Fugh. Just one question about a holding

>

> Dan. So how do I get a smart card?

>

> I am here in DC.

>

> Doug Ericksen

>

> Sent from my iPhone

>

>> On Apr 25, 2017, at 3:48 PM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:

>>

>> OK, looks good. I had one question (not form related). You reported have **Ex. 6 - Personal Privacy**

How much do you have exactly? We need this information in order to write a recusal statement for you.

If it's more than \$15K but less than \$25K, you'll be recused from specific party matters (enforcement actions, grants, contracts, etc.). If it's more than \$25K, you'll also be recused from any matter of general applicability that would have a direct and predictable effect on **Ex. 6 - Personal Privacy**

>>

>> Just let us know!

>>

>> Dan

>>

>> P.S. The bright side is that you'll be able to import all of the information from this form into your next OGE-278 form (e.g., your next annual report due in May, 2018).

>>

>> -----Original Message-----

>> From: Ericksen, Doug


>> Sent: Tuesday, April 25, 2017 12:44 PM

>> To: Fort, Daniel <Fort.Daniel@epa.gov>

>> Subject: Re: You are very close...great progress

>>

>> Names are right
>>
>> Just added details on **Ex. 6 - Personal Privacy**
>>
>> Thank you for the help on this
>>
>> Doug Ericksen
>>
>> Sent from my iPhone
>>
>>> On Apr 24, 2017, at 11:17 AM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:
>>>
>>> I sent back the report to you for some additional feedback. You are very close. You just need to confirm that I have the right names for your **Ex. 6 - Personal Privacy** (I can change the names accordingly) and a little more information to Part 4 on your **Ex. 6 - Personal Privacy**. I'll then send everything to Justina for her final approval.
>>>
>>> Dan
>>>
>>> P.S. Glad you could get access to your report.
>>>
>>> -----Original Message-----
>>> From: Ericksen, Doug
>>> Sent: Monday, April 24, 2017 12:57 PM
>>> To: Fort, Daniel <Fort.Daniel@epa.gov>
>>> Subject: Re: Ericksen
>>>
>>> Just logged in again and it shows all changes. I hit submit again since I made one more change.
>>>
>>> Doug Ericksen
>>>
>>> Sent from my iPhone
>>>
>>>> On Apr 20, 2017, at 12:47 PM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:
>>>>
>>>> I just checked and your report still shows that it's with you, not us. Please check again. If you are in town next week, I can help with that.
>>>>
>>>> Dan
>>>>
>>>> -----Original Message-----
>>>> From: Ericksen, Doug
>>>> Sent: Thursday, April 20, 2017 2:10 PM
>>>> To: Fort, Daniel <Fort.Daniel@epa.gov>
>>>> Subject: Re: Ericksen
>>>>
>>>> I believe I have done that
>>>>
>>>>
>>>> Sent from my iPhone
>>>>
>>>>> On Apr 20, 2017, at 10:42 AM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:
>>>>>
>>>>> OK, don't forget to resubmit the report. You have to open the "submit" page by clicking on the left hand menu item "submit." This opens a submit page where you attest that the information is accurate by clicking on the appropriate box. Then you click on submit.

>>>>>
>>>>> -----Original Message-----
>>>>> From: Ericksen, Doug
>>>>> Sent: Thursday, April 20, 2017 1:33 PM
>>>>> To: Fort, Daniel <Fort.Daniel@epa.gov>
>>>>> Subject: Re: Ericksen
>>>>>
>>>>> I placed in the end note
>>>>>
>>>>> Sent from my iPhone
>>>>>
>>>>>> On Apr 20, 2017, at 10:04 AM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:
>>>>>>
>>>>>>> There should be an option at the bottom of the dialogue box in the upper right hand corner of
your screen that will allow you to manually add an income amount. If you can't find it, you can put it in an
end note and we'll change it for you.
>>>>>>>
>>>>>>> -----Original Message-----
>>>>>>> From: Ericksen, Doug
>>>>>>> Sent: Thursday, April 20, 2017 11:43 AM
>>>>>>> To: Fort, Daniel <Fort.Daniel@epa.gov>
>>>>>>> Subject: Re: Ericksen
>>>>>>>
>>>>>>>> Thanks. How do I add exact compensation for jobs? All I can find how to add ranges
>>>>>>>>
>>>>>>>>> Do I just put it in the notes?
>>>>>>>>>
>>>>>>>>> Doug
>>>>>>>>>
>>>>>>>>> Sent from my iPhone
>>>>>>>>>
>>>>>>>>>> On Apr 20, 2017, at 8:35 AM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:
>>>>>>>>>>
>>>>>>>>>>> No, it's your EPA email address: ericksen.doug@epa.gov
>>>>>>>>>>>
>>>>>>>>>>> -----Original Message-----
>>>>>>>>>>> From: Ericksen, Doug
>>>>>>>>>>> Sent: Thursday, April 20, 2017 11:10 AM
>>>>>>>>>>> To: Fort, Daniel <Fort.Daniel@epa.gov>
>>>>>>>>>>> Subject: Re: Ericksen
>>>>>>>>>>>
>>>>>>>>>>>> Dan. Is my user ID for integrity my EPA login of ?
>>>>>>>>>>>>
>>>>>>>>>>>> Doug
>>>>>>>>>>>>
>>>>>>>>>>>> Sent from my iPhone
>>>>>>>>>>>>
>>>>>>>>>>>>>> On Apr 18, 2017, at 12:43 PM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:
>>>>>>>>>>>>>>
>>>>>>>>>>>>>>> I'm at 202 564-2200 and yes, I can easily do 9:30 my time.
>>>>>>>>>>>>>>>
>>>>>>>>>>>>>>> -----Original Message-----
>>>>>>>>>>>>>>> From: Ericksen, Doug
>>>>>>>>>>>>>>> Sent: Tuesday, April 18, 2017 3:41 PM
>>>>>>>>>>>>>>> To: Fort, Daniel <Fort.Daniel@epa.gov>
>>>>>>>>>>>>>>> Subject: Ericksen

>>>>>>>>
>>>>>>>> Dan. I need your phone number. I am also having trouble logging into my computer.
>>>>>>>> Can we do this tomorrow at 9.30 your time.
>>>>>>>>
>>>>>>>> Doug Ericksen
>>>>>>>> Ex. 6 - Personal Privacy
>>>>>>>>
>>>>>>>> Sent from my iPhone

To: Fort, Daniel[Fort.Daniel@epa.gov]
From: Ericksen, Doug
Sent: Tue 4/25/2017 8:49:49 PM
Subject: Re: OK, I sent it along to Justina Fugh. Just one question about a holding

Sorry to say [Ex. 6 - Personal Privacy]

Probable [Ex. 6 - Personal Privacy] right now.

Ericksen

Sent from my iPhone

> On Apr 25, 2017, at 12:48 PM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:

>

> OK, looks good. I had one question (not form related). You reported have [Ex. 6 - Personal Privacy]
> How much do you have exactly? We need this information in order to write a recusal statement for you.
> If it's more than \$15K but less than \$25K, you'll be recused from specific party matters (enforcement
> actions, grants, contracts, etc.). If it's more than \$25K, you'll also be recused from any matter of general
> applicability that would have a direct and predictable effect on [Ex. 6 - Personal Privacy]

>

> Just let us know!

>

> Dan

>

> P.S. The bright side is that you'll be able to import all of the information from this form into your next
> OGE-278 form (e.g., your next annual report due in May, 2018).

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> From: Ericksen, Doug

> Sent: Tuesday, April 25, 2017 12:44 PM

> To: Fort, Daniel <Fort.Daniel@epa.gov>

> Subject: Re: You are very close...great progress

>

> Names are right

>

> Just added details on [Ex. 6 - Personal Privacy]

>

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>

> Doug Ericksen

>

> Sent from my iPhone

>

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>>

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>> final approval.

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>>> Dan
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>>> To: Fort, Daniel <Fort.Daniel@epa.gov>
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>>>> From: Ericksen, Doug
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>>>>>>
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>>>>>> Doug
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>>>>>> Sent from my iPhone
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>>>>>>> I'm at 202 564-2200 and yes, I can easily do 9:30 my time.
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>>>>>>> Can we do this tomorrow at 9.30 your time.
>>>>>>>
>>>>>>> Doug Ericksen
>>>>>>> Ex. 6 - Personal Privacy
>>>>>>>
>>>>>>> Sent from my iPhone

Doug Ericksen OA



Certified by: Justina Fugh
Certificate Dated: 01/18/2017
Certificate ID Number: JFUH-AJ6TD3
Full Organization: OA

According to the EPA Domino Directory.
Contact your local Help Desk if this
organizational information is not correct.



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 201
Washington, D.C. 20036-4505

February 14, 2001

Re: OSC File No. _____

Dear _____

This is in response to your request for an advisory opinion concerning the Hatch Act. Specifically, you ask whether the Hatch Act permits a federal employee to participate in a fundraising effort to retire a campaign debt, which he incurred prior to accepting federal employment. Although this is the first time this issue has arisen since the Hatch Act was amended in 1993, our prior advice concerning the retirement of campaign debt continues to apply.

Prior to the 1993 Reform Amendments, the Hatch Act prohibited federal employees from actively participating in partisan political management and partisan political campaigns. Specifically, the implementing regulations at 5 C.F.R. § 733.122(b)(3) prohibited federal employees from directly or indirectly "soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose." The regulations did not further define the term partisan political purpose.

Based on the language of the statute and the implementing regulations, the Office of Special Counsel advised agencies that an agent or the campaign organization of a candidate who later became a federal employee could continue to organize and promote fundraising events to retire campaign debt, but the employee-candidate could not assist in promoting the events and could not otherwise actively participate in such events. We further advised that the candidate could attend these events, be recognized and briefly state the appreciation to all whose efforts contributed to the retirement of the campaign debt. We advised that any participation beyond this passive role would inevitably involve the employee in fundraising activity beyond what the law permitted.

In 1993, the language of the Hatch Act was amended to allow most federal employees to actively engage in partisan political management and partisan political

campaigns. However, covered federal employees may not “knowingly solicit, accept, or receive a political contribution from any person....”¹ 5 U.S.C. § 7323(a)(2). The implementing regulations for the 1993 Amendments define political contribution as “any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose.” 5 C.F.R. § 734.101. Political purpose means “an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group.” *Id.* Based on the above language, the issue is whether a federal employee’s fundraising to retire campaign debt constitutes soliciting, accepting, or receiving a political contribution for the purpose of promoting or opposing a candidate for partisan political office.

Although it is unclear under the regulations when an individual ceases to be a candidate², we believe that the employee remains a “candidate” after the election for purposes of retiring campaign debt. In the situation you present, the federal employee was clearly a candidate at the time the debt was incurred. The debt was incurred for the purpose of promoting his candidacy for partisan political office and the post-election fundraising is to pay off his campaign debt. Moreover, although the fundraising would occur after the election, it requires that the employee hold himself out as a candidate in requesting assistance to pay off his campaign debt. Therefore, in these limited circumstances, the federal employee is still considered a “candidate” for purposes of the Hatch Act as it relates to retiring campaign debt.

This interpretation is consistent with the other provisions of the Hatch Act and best supports the Congressional intent underlying the Reform Amendments of 1993. Specifically, this interpretation is supported by the Act’s prohibition against fundraising and its overriding purpose of preventing coercion or the appearance of coercion by covered employees.

¹ There is a narrow exception in the statute which allows a federal employee to receive a political contribution if the person is (A) a member of the same federal labor organization . . . ; (B) not a subordinate employee; and (C) the solicitation is for a contribution to the multi-candidate political committee.

² The Hatch Act regulations define candidate as:

an individual who seeks nomination or election to any elective office whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual’s nomination or election.

5 C.F.R. § 734.101.

Although the 1993 Amendments greatly expanded most federal employees' rights to engage in political activity, the Amendments retained and strengthened the prohibition against fundraising. Even those employees who are subject to lesser restrictions under the Act are prohibited from engaging in fundraising. Thus, although the law permits employees who are appointed by the President, by and with the advice and consent of the Senate (PAS), to widely engage in political activity while on duty and in government buildings, even these employees are prohibited from soliciting, accepting or receiving political contributions. See 5 C.F.R. Part 734, Subpart E.³

In addition, the purpose behind prohibiting fundraising is to prevent any coercion or the appearance of coercion by covered employees. It is clear under the Hatch Act that covered employees may not solicit, accept, or receive political contributions on behalf of current candidates for partisan political office. In retiring campaign debt, the potential for coercion has not changed. For example, if we were to determine that the employee in question is no longer a candidate for purposes of retiring campaign debt, he would not be prohibited from actively soliciting, accepting or receiving funds from his subordinate employees and individuals who have business before the agency.⁴ Thus, the potential for coercion continues to be a concern even after an election.

In short, based on the above, a federal employee is considered a "candidate" for purposes of the Hatch Act as it relates to retiring campaign debt. Therefore, such an employee is prohibited from personally soliciting, accepting or receiving political contributions. However, we have previously advised, an agent or the campaign organization of a candidate who later becomes a federal employee may continue to organize and promote fundraising events to retire campaign debt. But the employee-candidate may not assist in promoting the event and may not otherwise actively participate in such events. Further, the candidate may attend these events, be recognized and briefly state his appreciation to all whose efforts contributed to the

³ Unlike other federal employees, PAS employees and those employees who are paid from an appropriation for the Executive Office of President may engage in political activity: while on duty; while wearing a uniform, badge, or insignia; while in a federal building; and, while using a government vehicle. 5 C.F.R. § 734.502(c).

⁴ We recognize that such activities would likely be proscribed by ethical standards.

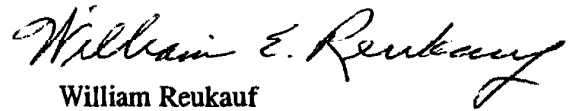
U.S. Office of Special Counsel

Page 4

retirement of his campaign debt. Any participation beyond this passive role would inevitably involve the employee in fundraising activity beyond what the law permits.

If you have any further questions, please contact Amber Bell at (202) 653-7143.

Sincerely,

A handwritten signature in black ink, reading "William E. Reukauf". The signature is written in a cursive style with a large, stylized "W" and "R".

**William Reukauf
Associate Special Counsel
for Prosecution**

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity “directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group.”

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day	Yes	Yes	Yes
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

*PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Signature

_____, 20____
Date

Print or type your full name (last, first, middle)

The White House
Office of the Press Secretary
For Immediate Release
January 28, 2017

Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

EXECUTIVE ORDER

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ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

"2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political

party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

"8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service."

Sec. 2. Definitions. As used herein and in the pledge set forth in section 1 of this order:

(a) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(b) "Appointee" means every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Covered executive branch official" shall have the definition set forth in the Lobbying Disclosure Act.

(d) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(e) "Executive agency" and "agency" mean "executive agency" as defined in section 105 of title 5, United States Code, except that the terms shall include the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, and excludes the Government Accountability Office. As used in paragraph 1 of the pledge, "executive agency" means the entire agency in which the appointee is appointed to serve, except that:

(1) with respect to those appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the appointee ceased to serve in that department or agency; and

(2) an appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(f) "Foreign Agents Registration Act of 1938, as amended" means sections 611 through 621 of title 22, United States Code.

(g) "Foreign government" means the "government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(e).

(h) "Foreign political party" has the same meaning as that term has in section 1(f) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(f).

(i) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(j) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(k) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3), (j), (k), and (l) of title 5, Code of Federal Regulations.

(l) "Government official" means any employee of the executive branch.

(m) "Lobbied" shall mean to have acted as a registered lobbyist.

(n) "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 *et seq.*

(o) "Lobbying Disclosure Act" means sections 1601 *et seq.* of title 2, United States Code.

(p) "Lobbyist" shall have the definition set forth in the Lobbying Disclosure Act.

(q) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child, or parent.

(r) "Particular matter" shall have the same meaning as set forth in section 207 of title 28, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(s) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(t) "Participate" means to participate personally and substantially.

(u) "Pledge" means the ethics pledge set forth in section 1 of this order.

(v) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(w) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(x) Terms that are used herein and in the pledge, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

(y) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2017.

Sec. 3. Waiver. (a) The President or his designee may grant to any person a waiver of any restrictions contained in the pledge signed by such person.

(b) A waiver shall take effect when the certification is signed by the President or his designee.

(c) A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve.

Sec. 4. Administration. (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; and

(2) to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this Executive Order are made available for use by agencies in fulfilling their duties under section 4(a);

(2) in consultation with the Attorney General or Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 5 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations; and

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 8 of the pledge is honored by every employee of the executive branch;

(d) An appointee who has signed the pledge is not required to sign the pledge again upon appointment or detail to a different office, except that a person who has ceased to be an appointee, due to termination of employment in the executive branch or otherwise, shall sign the pledge prior to thereafter assuming office as an appointee.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or civil judicial proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from engaging in lobbying activities with respect to that agency for up to 5 years in addition to the 5-year time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action on behalf of the United States against the former officer or employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former officer or employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former officer or employee arising out of any breach or attempted breach of the pledge signed by the former officer or employee.

Sec. 6. General Provisions. (a) This order supersedes Executive Order 13490 of January 21, 2009 (Ethics Commitments by Executive Branch Personnel), and therefore Executive Order 13490 is hereby revoked. No other prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) The pledge and this order are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party (other than by the United States) against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

DONALD J. TRUMP